

FOIA-87-660

RESPONSE TO FREEDOM OF
INFORMATION ACT (FOIA) REQUESTPDR
014

RESPONSE TYPE

☒ FINAL☐ PARTIAL

DATE

OCT 30 1997

DOCKET NUMBER(S) (if applicable)

REQUESTER

Ms. Linda Bauman

PART I. - RECORDS RELEASED OR NOT LOCATED (See checked boxes)

☐ No agency records subject to the request have been located.☐ No additional agency records subject to the request have been located.☐ Agency records subject to the request that are identified in Appendix _____ are already available for public inspection and copying in the NRC Public Document Room, 1717 H Street, N.W., Washington, DC.☒ Agency records subject to the request that are identified in Appendix C are being made available for public inspection and copying in the NRC Public Document Room, 1717 H Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.☐ The nonproprietary version of the proposal(s) that you agreed to accept in a telephone conversation with a member of my staff is now being made available for public inspection and copying at the NRC Public Document Room, 1717 H Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.☐ Enclosed is information on how you may obtain access to and the charges for copying records placed in the NRC Public Document Room, 1717 H Street, N.W., Washington, DC.☐ Agency records subject to the request are enclosed. Any applicable charge for copies of the records provided and payment procedures are noted in the comments section.☐ Records subject to the request have been referred to another Federal agency(ies) for review and direct response to you.☐ In view of NRC's response to this request, no further action is being taken on appeal letter dated _____.

PART II.A - INFORMATION WITHHELD FROM PUBLIC DISCLOSURE

☐ Certain information in the requested records is being withheld from public disclosure pursuant to the FOIA exemptions described in and for the reasons stated in Part II, sections B, C, and D. Any released portions of the documents for which only part of the record is being withheld are being made available for public inspection and copying in the NRC Public Document Room, 1717 H Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.

Comments

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PDR FOIA
BAUMAN87-660 PDR

SIGNATURE, DIRECTOR, DIVISION OF RULES AND RECORDS

Donnie H. Hummel

APPENDIX C

RECORDS MAINTAINED IN THE PDR UNDER THE ABOVE REQUEST NUMBER

<u>NUMBER</u>	<u>DATE</u>	<u>DESCRIPTION</u>
1.	4/8/87	Notification of Contract Execution - Contract NRC-02-87-003 (12 pages)

GOVERNMENT ACCOUNTABILITY PROJECT

1555 Connecticut Avenue, N.W., Suite 202
Washington, D.C. 20006

(202) 232-8550

MIDWEST OFFICE

104 E. WISCONSIN AVENUE

APPLETON, WISCONSIN 54911-4897

September 24, 1987

FREEDOM OF INFORMATION ACT REQUEST

Director
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, D.C. 20210

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-87-660
Rec'd 10-5-87

TO WHOM IT MAY CONCERN

Pursuant to the Freedom of Information Act (FOIA, 5 U.S.C. 552,) the Government Accountability Project (GAP) requests copies of any and all agency records and information, including but not limited to notes, letters, memoranda, drafts, minutes, diaries, logs, calendars, tapes, transcripts, summaries, interview reports, procedures, instructions, engineering analyses, drawings, files, graphs, charts, maps, photographs, agreements, handwritten notes, studies, data sheets, notebooks, books, telephone messages, computations, voice recordings, computer runoffs, and any other data compilations, interim and/or final reports, status reports, and any and all other records relevant to and/or generated in connection with the Nuclear Regulatory Commission hiring Howard Bellman of Madison, Wisconsin, to facilitate and mediate the procedural rules of licensing procedure process as a neutral party. This committee is called the High Level Waste Licensing Support System Advisory Committee. (see attached article.

This request includes all agency records as defined in 10 C.F.R. 9.3a(b) and the NRC Manual, Appendix 0211, Parts 1.A.2 and A.3 (approved October 8, 1980) whether they currently exist in the NRC official, "working" investigative or other files, or at any other location, including private residences.

If any records as defined in 10 C.F.R. 9.3a(b) and the NRC Manual, supra, and covered by this request have been destroyed and/or removed after this request, please provide all surrounding records, including but not limited to a list of all records which have been or are destroyed and/or removed, a description of the action(s) taken relevant to, generated in connection with and/or issued in order to implement the action(s).

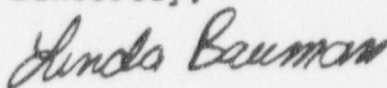
GAP requests that fees be waived, because "finding the information can be considered as primarily benefitting the general public, "5 U.S.C. 552 (a) (4) (a). GAP is a non-profit, non-partisan public interest organization concerned with honest and open government. Through public outreach, the Project promotes whistleblowers as agents of government accountability. Through its Environmental Whistleblower Clinic, GAP offers assistance to local public interest and citizens groups and intervenors in the concern for safety at nuclear power plants.

We are requesting this information as part of an ongoing monitoring project of the NRC's efforts to protect public health and safety at and near nuclear processing plants and radioactive waste facilities.

For any documents or portions that you deny due to a specific FOIA exemption, please provide an index itemizing and describing the documents or portions of documents withheld. The index should provide a detailed justification of your grounds for claiming each exemption, explaining why each exemption is relevant to the document or portion of the document withheld. This index is required under Vaughn v. Rosen (I), 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974).

We look forward to your response to this request within ten (10) working days.

Sincerely,



Linda Bauman
FOIA Coordinator
Midwest Office

Response to this request should be mailed to the Midwest Office:

104 E. Wisconsin Avenue -B
Appleton, Wisconsin 54911-4897

State still a key player in nuclear dump issues

By Pat Stanton
Post-Crescent staff writer

Wisconsin continues to be a key player nationally in nuclear waste dump issues.

Party to litigation challenging the Department of Energy, Wisconsin lost one battle in the 9th U.S. Circuit Court of Appeals in San Francisco Thursday.

However, this week Wisconsin embarked on guiding the administrative process which will govern the licensing of future nuclear waste sites.

Thursday's appeals court decision regarding use of the Nuclear Waste Fund for litigation will affect Wisconsin "but I don't know how much," said Carl Sinderbrand, Wisconsin Department of Justice, this morning.

The state has always used its own funds

to fight the DOE on disposal site location. Jim Kleinhans, executive director of the state Radioactive Waste Review Board, said this morning. But the states of Washington and Nevada, two of the three finalists for the nation's first permanent disposal site of high-level nuclear waste and spent fuel, have used the fund for litigation, a practice challenged by DOE. The appeals court determined states challenging their designation by the federal government as a potential nuclear waste dump site can't bill the government-supervised Nuclear Waste Fund for the cost of their lawsuits.

"We have always supported the stance of Nevada and Washington," Kleinhans said, "but we have never used those funds. The state Department of Justice has always represented us. We have always used Wisconsin funds."

Sinderbrand was in Washington, D.C., Thursday representing the state at the organizational meeting of the Nuclear Regulatory Advisory Committee. Wisconsin is a partner with Minnesota in the effort.

"NRC realizes that the licensing procedure would be far and away the largest administrative case in history of U.S. involving millions and millions of documents," said Kleinhans.

Wisconsin is among about 15 parties to have voice in developing the licensing process, Sinderbrand said this morning.

"What is the process going to be? From the NRC perspective there are licensing deadlines, by statute three years, and NRC is concerned they can't make that. From our perspective there will be an enormous volume of information generated. The issue is how do we manage that?"

Continued on page 2

Nuke dump...

Continued from page 1

There will be hundreds of thousands of people in the area near the dump. There will be millions of pages of documents. The NRC is concerned they can't within statutory limit. Sinderbrand said "we are talking about an electronic document retrieval system, a nationalized computer system."

"Our interest relates to a couple of things. We have had difficulty historically with the DOE getting information. We are funding that information available in so many different forms and in different locations that it is hard to gain access to the things we need access to. Another issue is how to cover the cost of this electronic document system which is going to be so expensive to access."

"Our other interest is a big one. Whatever the process is used in this first repository to the extent that it is successful it will be used for the second repository for which we are a candidate."

In any case, Wisconsin is currently a "corridor" state for transportation of high level nuclear waste to the state of Washington given current rail and highway routes. "By virtue of that we are affected by we are not eligible for funding as an 'affected' state. Why is it so fiscally impossible for us to participate?"

In the San Francisco case, Wisconsin intervened as a petitioner on the side of using the Nuclear Waste Fund, collected by the federal government from producers of nuclear power, for litigation, Kleinhans said. Oral arguments on that suit were held Feb. 12 and apparently we lost that one which is not unusual because when you're suing a federal agency you realize federal courts are likely to rule in their favor."

"It was our position the state's right to review is right to challenge especially where that challenge is not just by statute. The question which I can't answer at this point is whether the court draws the line as to what is a challenge," Sinderbrand said.

Currently there are about 30 suits pending on the nuclear waste issue and most are pending in the San Francisco court. Of course, Wisconsin has intervened in that, Kleinhans said.

The DOE has narrowed the choices for the first permanent disposal site

spent fuel in Hanford, Wash., Yucca Mountain, Nev., and an area near Merford, Tenn.

Federal law has set a 1995 deadline for operation of the first site. Draft plans for detailed study of the sites are due from the DOE next January. Separate lawsuits are pending by a number of states, environmental groups and others, challenging procedures used in selecting the sites, as well as the department's decision to suspend the search for a second site. The Nuclear Waste Fund, collected by the federal government from producers of nuclear power, pays the costs of studying their potential sites and the impact nuclear waste disposal would have on the states. But the court, upholding a DOE decision, said the fund is not available to pay for the states' lawsuits against the government.

Federal law makes the fund money available for "review" of the department's activities, but this is "limited to a state's independent evaluation of siting activities and does not encompass a court's review," said Judge Mary Schroeder, writing for a unanimous three-member panel.

"If we ever become eligible again for federal funding as an affected state — hopefully we will not — at that time this will have an impact on us," Sinderbrand said.

It is Wisconsin's position as a second-round state that put it on the advisory committee. NRC is trying to establish procedural rules in a very complex area. "Were there in general a small or discrete number of interested parties they get all those parties together in attempt to negotiate an agreement," Sinderbrand said. "They try to get balance of effective interests."

Edward Bellman of Madison representing the Conservation Foundation has been hired by the NRC to facilitate and mediate the process as a neutral party. Kleinhans said. The foundation is called the High Level Waste Licensing Support System Advisory Committee.

Licensing procedures to look at the technical, socio-economic and other factors will be a massive administrative project, Kleinhans said. "Just as building the two repositories will be the largest civilian construction project in U.S. history — \$10 bil-